IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 2860 of 2007(M)

PETITIONERS:

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1. P.B. ALIYAR,
   ASSISTANT ENGINEER (HR.GR.), DISTRICT OFFICE,
   GROUND WATER DEPARTMENT, ERNAKULAM.

2. P. ASOKAN,
   ASST.ENGINEER (HR.GR.), GROUND WATER DEPARTMENT,
   KOZHIKODE.

BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU
SMT.C.S.RAJANI

RESPONDENTS:

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1. THE PRINCIPAL SECRETARY TO GOVERNMENT,
   WATER RESOURCES (G.W) DEPARTMENT,
   SECRETARIATE, THIRUVANANTHAPURAM.

2. THE DIRECTOR,
   GROUND WATER DEPARTMENT, JALAVINJANA BHAVAN,
   AMBALAMUKKU, KAVADIYAR, THIRUVANANTHAPURAM.

3. SELVAN P.,
   ASST.ENGINEER, DIST. OFFICE,
   GROUND WATER DEPARTMENT, ALAPPUZHA.

4. A. ANITHA NAIR,
   ASSISTANT ENGINEER, GROUND WATER DEPARTMENT,
   PALAKKAD.

5. P.V. JANET,
   ASST.ENGINEER, DIST.OFFICE,GROUND WATER DEPARTMENT
   DISTRICT OFFICE, MUNICIPAL BUILDING, KOLLAM.

BY ADV. DR.K.P.SATHEESAN FOR R3
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD
SRI.K.ABDUL JAWAD FOR R4
SRI.U.MUHAMMED MUSTHAFA FOR R4
GOVERNMENT PLEADER SRI.P.NANDAKUMAR FOR R1 AND R2.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE GENERAL SENIORITY LIST.

EXT.P2: COPY OF THE RELEVANT PAGES OF THE SPECIAL RULES SHOWING THE CONDITIONS FOR PROMITION TO THE POST OF ASST.EXECUTIVE ENGINEER.

EXT.P3: COPY OF THE JUDGMENT DATED 18.8.2006 IN WRIT PETITION 22102/2006.

EXT.P4: COPY OF THE ORDER DATED 9.10.2006.

EXT.P5: COPY OF THE ORDER DATED 6.12.2006 ISSUED BY THE SECOND RESPONDENT.

EXT.P6: COPY OF THE REPORT OF TRANSFER OF CHARGE DATED 31.5.2007.

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// TRUE COPY//

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No. 2860 OF 2007-M

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Dated this the 9th day of April, 2007.

O R D E R

Petitioners are Diploma holders working as Assistant Engineers (Higher Grade). They aspire for promotion as Assistant Executive Engineers. As per Ext.P3, their case was directed to be considered. Ext.P4 order has been issued by the Government taking the clear stand that, while maintaining the ratio between the Degree, Diploma and ITI certificate holders, there are excess hands of Diploma holders manning the posts of Assistant Executive Engineers. It has accordingly been held that it may not be appropriate to bring in more Diploma holders to the rank of Assistant Executive Engineers. The direction to consider provisional promotion of the petitioners did not also yield any result because the Government did not approve the request of the petitioners. This was on the ground that

while there was saturation of Diploma holders in the category of Assistant Executive Engineers, the deficit Degree holders were shortly due to become qualified and thereby, to be entitled to occupy the posts of Assistant Executive Engineers. The Government did not, in their wisdom, think it necessary to make provisional promotions for a short term for just one month or so within which the Government expected the Degree holders to become qualified some time in November, 2006.

2. According to the petitioners, the private respondents - Degree holders - did not attain the requisite qualifications for being promoted as Assistant Executive Engineers either in November, 2006 or at any time until now. Accordingly it is urged that at least the case of the second petitioner, who is due to superannuate on 31-5-2007, could be considered for provisional promotion as Assistant Executive Engineer since he would get better emoluments which may reflect on his retiral benefits.

In the aforesaid circumstances, there will be an interim

direction that having regard to the fact situation prevailing after Ext.P4, including the non-availability of Degree holders for regular promotion to the category of Assistant Executive Engineers, the case of the second petitioner would be considered for provisional promotion as a prelude to his due retirement on 31-5-2007. Let such consideration be made by the Government within a period of four weeks from the date of receipt of a copy of this order and an appropriate representation in that regard.

H/o.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-